

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 26, 2004

IN RE:

TENNESSEE COALITION OF RURAL INCUMBENT
TELEPHONE COMPANIES AND COOPERATIVES
REQUEST FOR SUSPENSION OF WIRELINE TO
WIRELESS NUMBER PORTABILITY OBLIGATIONS
PURSUANT TO SECTION 251(F)(2) OF THE
COMMUNICATIONS ACT OF 1934, AS AMENDED

DOCKET NO.
03-00633

ORDER EXTENDING INTERIM SUSPENSION OF
FCC's LNP REQUIREMENTS THROUGH AUGUST 31, 2004

This matter is before the Hearing Officer as part of his continuing duties to hear preliminary matters during the pendency of the interim suspension established in the Order of May 7, 2004 and extended in the Order of June 14, 2004.¹

On March 24, 2004, the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives ("Coalition") filed an *Amended Petition for Suspension* ("*Amended Petition*") seeking a suspension, pursuant to 47 U.S.C. § 251(f)(2), of wireline to wireless number portability ("LNP") obligations. The *Amended Petition* asks the Tennessee Regulatory Authority (the "Authority" or "TRA") to suspend for individual members of the Coalition the intermodal number porting deadline of May 24, 2004 established by the Federal Communications Commission ("FCC"). Petitions for intervention were filed by the Consumer Advocate and Protection Division of the Office of the Attorney General

¹ See *Order Granting Petitions for Intervention and Motion for Suspension Pending Proceeding and Establishing Expedited Procedural Schedule* (May 7, 2004) and *Order Amending Procedural Schedule and Extending Interim Suspension Through July 26, 2004* (June 14, 2004).

("Consumer Advocate") and Cellco Partnership d/b/a Verizon Wireless ("Verizon"). On April 19, 2004, the Coalition filed a *Motion for Suspension Pending Proceeding and Motion to Set Procedural Schedule* ("*Motion for Interim Suspension*"). SprintCom, Inc. d/b/a Sprint PCS ("Sprint PCS") requested intervention on May 20, 2004.

After reviewing the filings of the parties and the record in this action, the Hearing Officer entered an Order on May 7, 2004² granting the petitions for intervention filed by the Consumer Advocate and Verizon. The Hearing Officer also granted the Coalition's *Motion for Interim Suspension*, temporarily suspending the May 24, 2004 implementation deadline for the FCC's LNP requirements until July 23, 2004 and established a procedural schedule so that the Authority could conduct an evidentiary hearing and determine the merits of the *Amended Petition* within the interim suspension period. In the Order of May 7, 2004, the Hearing Officer urged the Coalition to continue moving forward with the implementation of local number portability, inasmuch as the granting of the interim suspension will not serve as a precedent or a decision on the likelihood of success on the merits of the Coalition's *Amended Petition*. Sprint PCS was subsequently granted intervention by Order of June 2, 2004.

On May 13, 2004, the panel of Directors assigned to this case reviewed the Hearing Officer's Order of May 7, 2004 and determined that an evidentiary hearing would proceed June 21 through June 23, 2004. This matter came before the panel assigned to this docket at the June 7, 2004 Authority Conference for consideration of the request of the Coalition to reset the hearing date. After hearing from the parties in this docket, the panel, by a unanimous vote, directed the Hearing Officer to meet with the parties and determine a revised procedural schedule based either on an agreed-upon "paper" hearing or a new hearing date.

² See *Order Granting Petitions for Intervention and Motion for Suspension Pending Proceeding and Establishing Expedited Procedural Schedule* (May 7, 2004) ("Order of May 7, 2004")

On June 9, 2004, the parties, by way of a letter from counsel for Verizon, informed the Hearing Officer that they had reached an agreement to present this matter to the Authority through a "paper" hearing. The parties also proposed a revised procedural schedule that would encompass the completion of pre-filed testimony and incorporate a date for the filing of briefs. The parties suggested July 26, 2004 as a possible date on which the Authority could render a decision based on the record of the case and the briefs of the parties. Because this suggested date would be beyond the original interim suspension date of July 23, 2004 established in the Order of May 7, 2004, the interim suspension was extended through July 26, 2004.

In an Order issued on June 14, 2004, the Hearing Officer ruled that this matter would proceed to deliberation by the panel assigned to this docket to determine issues of law and fact based on the entire record reflected in the docket file, including, but not limited to: the *Amended Petition* and supporting documentation, responses of the parties, discovery responses filed by the parties, pre-filed direct and rebuttal testimony and the parties' briefs. The Order also stated that the procedural schedule set forth therein could be amended or modified by order of the Authority or the Hearing Officer.

The parties engaged in discovery pursuant to the procedural schedule. On June 17, 2004, Verizon filed a Motion to Compel responses from the Coalition to discovery requests that were served on May 17, 2004. The Coalition filed a response in opposition to the Motion to Compel on June 24, 2004. Thereafter, all parties proceeded to file testimony and briefs according to the procedural schedule.

Inasmuch as discovery remains outstanding, the completion of which could impact the record of this proceeding, a determination of the merits of the *Amended Petition* has not been scheduled for the July 26, 2004 Authority Conference. For this reason, the Hearing Officer

finds that the interim suspension should be extended through August 31, 2004 to allow for the resolution of the motion to compel, the closing of the record and a decision by the Authority on the merits of the *Amended Petition*. This extension of the interim suspension does not exceed the 180 day time period within which the Authority must act on the *Amended Petition* pursuant to 47 U.S.C. § 251(f)(2).³

IT IS THEREFORE ORDERED THAT:

The interim suspension until July 26, 2004 of the Federal Communications Commission's local number portability requirements granted to the Coalition is extended through **August 31, 2004**.


Richard Collier, Hearing Officer

³ In the Order of May 7, 2004, the Hearing Officer determined that the 180 day period for Authority action, as required in 47 U S C § 251(f)(2), did not begin until the filing of the *Amended Petition* on March 24, 2004 (Order of May 7, 2004 at 14)